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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,613	03/18/2004	Joseph B. Richey II	12873/04782	5879
24024	7590	08/23/2006	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP			ILAN, RUTH	
800 SUPERIOR AVENUE			ART UNIT	
SUITE 1400			PAPER NUMBER	
CLEVELAND, OH 44114			3616	

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/803,613	Applicant(s) RICHEY ET AL.	
	Examiner Ruth Ilan	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8 and 11-18 is/are rejected.
- 7) ☒ Claim(s) 4, 9, 10, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/12/04, 7/18/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the shroud covering the front portion must be shown or the feature(s) canceled from the claim(s). No new

matter should be entered. It is noted that the detachable shroud disclosed covers the rear portion (607.)

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 6, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 2, 3, 5, 7, 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (US 6,896,084 B2) in view of Hopely, Jr. (US 5,240,086.) Regarding claim 1, Lo teaches a motorized scooter including a front portion (10)

including a body having a supportive frame and further including a releasable clasp system (129) attached to the supportive frame (see Figure 2). A rear portion (20) is detachably connected to the front portion, and includes two drive wheels (26) and two pivot arms (unnumbered arms attached to pivot axle 29 and ending in auxiliary wheels 28. As seen in Figure 1, the pivot axle is adapted to receive the releasable clasp system. Regarding claim 11, as broadly claimed and disclosed, the drive wheels are midway, that is in between the front of the scooter and the rear or auxiliary wheels of the scooter. Lo does not specifically describe the power system of the rear wheels as a transaxle driven by an electric motor, however Hopely, Jr. shows a similar device on such a vehicle, and terms it a transaxle. It would have been obvious to one having ordinary skill in the art at the time of the invention to include a transaxle as the drive device of Lo, since transaxles are well known in the personal mobility field and are useful to provide power and differential in a compact arrangement. Regarding claim 3, the flanges of Lo can reasonably be considered to be a guide system for the pivot axle. Regarding claim 5, the front portion details of Lo are not included, however Hopely, Jr teaches that such personal mobility vehicles generally include front wheels that are steered in the claimed manner. It would have been obvious to one having ordinary skill in the art at the time of the invention to include the claimed steering system with the vehicle of Lo, in view of the teaching of Hopely Jr. in order to provide a complete vehicle that permits the user to steer it. Regarding claims 2 and 15-17, Lo does not teach all the details of the electrical system and the electrical connections. Hopely, Jr. teaches a power source that is a battery, and a controller on the front portion (18) and further

teaches that most of the electrical components are mounted on the front portion, including a charger, and that the motor is mounted on the rear portion it would have been obvious to one having ordinary skill in the art at the time of the invention to include the claimed electrical components, in view of the teaching of Hopely, Jr. with the scooter of Lo, in order to provide a functioning system that powers the wheels. Regarding claims 12 and 13, the auxiliary wheels of Lo are closer to each other than the drive wheels, however Lo does not specifically disclose casters. The Examiner takes Official Notice that it is well known to provide caster wheels as the auxiliary wheels of personal mobility vehicles. Such wheels are useful because they easily follow the direction of the vehicle and hence enhance maneuverability of the vehicle. It would have been obvious to one having ordinary skill in the art at the time of the invention to include caster wheels as the auxiliary wheels of Lo, in order to provide enhanced maneuverability during turns. Regarding claim 7, the Examiner takes Official Notice that it is well known in the personal mobility art to provide shrouds that cover the batteries and other portions of the scooter. These are useful for hiding unsightly componentry. It would have been obvious to one having ordinary skill in the art at the time of the invention to include a shroud with the scooter of Lo in view of Hopely, Jr. in order to cover the batteries and other unsightly componentry.

8. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo (US 6,896,084 B2) in view of Hopely, Jr. (US 5,240,086) and further in view of Nesterick et al. (US 5,020,624.) Lo in view of Hopely, Jr. is discussed above, and regarding claim 6, fails to teach a clip for holding a basket, or with respect to claim 8, an

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adjustable seat post. Nesterick et al. teaches a clip (38) for holding a basket (40) and further teaches an adjustable seat post. In view of the teachings of Nesterick et al. it would have been obvious to one having ordinary skill in the art at the time of the invention to include a clip and a basket to the scooter of Lo in view of Hopely, Jr. in order to provide a convenient place for the user to store items to be carried. Further it would have been obvious to provide the seat with an adjustable post in order to facilitate fitting the scooter to occupants of different heights.

Allowable Subject Matter

9. Claims 4, 4, 9, 10, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Degonda et al., Furukawa, Schepis, and Cheng teach motorized scooters of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673.

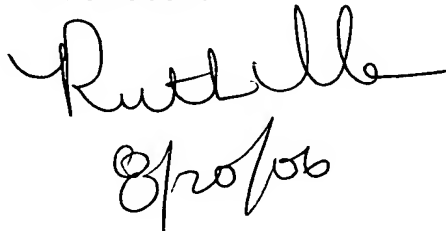
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ruth Ilan
Primary Examiner
Art Unit 3616



Handwritten signature of Ruth Ilan, dated 8/20/06.

RI
8/20/06